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REMARKS

This responds to the Office Action dated March 13, 2003.

Claims 1-5, 7-9 and 11-22 are pending in the application. All of the claims are rejected as being unpatentable over prior art, under 35 U.S.C. 103(a).

Claim Rejections – 35 U.S.C. § 103

Claims 1-5, 7, 8 and 15-22 were rejected under § 103(a) as being unpatentable over U.S. Patent 4,705,283 to Kleisath in view of U.S. Patent 1,341,484 to Starratt. The rejection indicates that Kleisath discloses a support attachment with a handle 8 comprising an arm at 8 and a side rail engaging means comprises a rectilinear support bar 11 having opposed ends and rigidly connected to the arm at 8, a U-shaped frame 4 extending forwardly from, parallel to, and rigidly connected to the support bar 11 for rotatably supporting wire spools 29. The frame comprises the parallel spaced side legs 6 having openings and extending from end portions of a base leg 7 that is joined to the support bar at 8, and the spool support rod, all of one piece construction occupying a common plane. The Office Action further indicates that Kleisath does not disclose the handle that includes two parallel spaced apart arms at 8, but that Starratt discloses a support attachment in Fig. 1 that has a handle including a rectilinear support bar 2 rigidly connected to a pair of parallel, spaced apart arms 1. The rejection further states that it would have been obvious to modify the handle to include an additional arm parallel to and spaced from the arm 8 as taught by Starratt, because one had been motivated to provide a stronger inner connection between the rectilinear handle bar 7 and the U-shaped frame 4.

It should be noted that neither Starratt nor Kleisath perform the same functions as described by applicant. While both perform the function of holding a reel in a rotatable position, neither are

disclosed as being mounted to a ladder and the device being maintained by the ladder in a horizontal attitude. The handle 8 of Kleisath is not of sufficient breadth to balance his spool carrier on a ladder, particularly when wire is being pulled from a spool off center of the caddy. Kleisath uses wheels 12 to support his structure, and there is no disclosure or suggestion in Kleisath that he could or would be able to mount his spool carrier to a ladder.

Fig. 2 illustrates Kleisath when the spool carrier is tilted so that it can be moved to a different location, and Fig. 3 shows the Kleisath spool carrier when it is stationary, with the handle resting on the ground. There is no ladder in sight. The pegs 13 and 15 hold the carrier on the ground, with the wheels 12 off the ground. The spool to be carried by Kleisath is a very heavy spool, weighing up to 800 lbs. or more when full. It does not seem logical that such a spool could be safely mounted to a ladder. Moreover, the distance between the handlebar 11 and cross bar 7, where the upwardly extending side rails of a ladder would be disposed, is so great that the apparatus would not be fully suspended from a ladder, but would sag down toward the floor adjacent the ladder. From this it can be seen that there is no suggestion or even a hint that this device would be combined with a ladder.

Starratt was used simply to suggest two parallel spaced apart arms, such as indicated at 1 in Fig. 1 of Starratt. However, the arms of Starratt do not improve the function of Kleisath. The spaced apart arms include the purpose of balancing the wire caddy on a step of a ladder. Claim 1 recites that the spacer is of a breadth sufficient to non-rotatably secure the support attachment to the step of the ladder. There is no ladder in Starratt. The apparent width of the handle 1 of Starratt is so narrow that it is very unlikely that it could balance on a step of a ladder, if a ladder were disclosed. Indeed, Starratt discloses that the elements at 1 are "clamped together by a keeper 5." If the keeper

is moved toward the grip portion 2, it allows the ends of the bearings 8 to withdraw from the reel and the reel is released. Therefore, the two elements of the handle 1 must be drawn together at all times to a narrow configuration in order to retain the reel. Therefore, the handle does not have a balancing function, as when resting on the step of a ladder, if there were a ladder.

Furthermore, Starratt discloses a mulsh layer, a device used in the method of enhancing the growth of sugarcane and preventing the growth of weeds. The roller applies paper on the ground to a row of cane, apparently by pulling on the handle 2 and advancing the roller over the cane. It is submitted that attaching the Starratt mulsh layer to a ladder would be strictly hind sight, since that combination probably would not work for the purpose intended by Starratt.

Claim 15 recites the pair of spacer bars rigidly interconnecting the U-shaped frame to the support bar for extending across the step of the ladder and spaced from each other a distance sufficient to balance the U-shaped frame on the ladder. This feature is not disclosed in either of Starratt or Kleisath. Moreover, neither Starratt nor Kleisath relate to the mounting of a wire caddy to a ladder. The handles are too short to suggest engagement behind the upwardly extending rails of a ladder, and the stems connecting the handle to the U-shaped supports are so long that the products would likely not suspend the reels above the floor, but allow them to engage the floor. Therefore, if an attempt is made to hang Starratt or Kleisath from an undisclosed ladder, they would surely fail. If the products could be hung on a ladder, there is no suggestion that they would be non-rotatably mounted on a step of a ladder.

Claim 19 adds the feature of the spacer bars extending from the support bar to the U-shaped frame. The spacer bars also extend parallel to each other and are sized and spaced from each other to balance the caddy upon the step of the ladder. The references do not suggest this.

Claim 20 adds the feature of the spacer bars being constructed and arranged so that when the spacer bars are placed on the step of the ladder, the spool support rod is oriented horizontally. There is no indication in either of the references that this function would be provided, because there is no step ladder disclosed in either reference, and the stems of the handles are so narrow and the handles so short that it is unlikely that the function would be fulfilled, especially if the spools should be off center, as illustrated in Fig. 1 of the application.

Claims 21 adds the feature of each end of the support bar being constructed and arranged so that the ends of the support bar engage a rear surface of a side rail of a ladder at a position above a step engaged by the spacer bars. Nothing in the applied references teaches this.

Starratt is combined with Kleisath in order to “provide a stronger interconnection between the rectilinear handlebar 7 and the U-shaped frame 4” of Kleisath. Applicant acknowledges that thicker or multiple ones of the stems extending between the handle and the reel support would enhance the strength of the device. However, that is not the point. No matter how strong the connection, the combined teachings would not provide the mounting on the step of a ladder as asserted by applicant.

Claims 9 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight et al., 4,533,091 in view of Kleisath, in view of Starratt, and further in view of Peterson 4,869,344. The rejection indicates that Kleisath and Starratt inherently teach the method steps recited in claims 9, 11, 12 and 14. However, the combination of Starratt and Kleisath, joined together to modify Knight et al. is made with complete 20-20 hindsight. There is not one suggestion in either Starratt or Kleisath that a ladder is involved in their use or construction. Kleisath is too big, cumbersome, and heavy to mount on a ladder, and would not properly mount on a ladder because of instability. It

would tilt, and its stem between the handle and the frame is not wide enough to balance the device on the step of a ladder. The pieces of the puzzle do not fit.

Peterson is used to teach the securement of a spool support rod 46 to parallel legs 42, 44 with lock pins. Applicant concedes that Peterson and many other prior art references disclose the use of lock pins at the end of a rod for supporting a reel of some kind. However, the first three references fail to make obvious the combination set forth in the claims.

Obviousness Has Not Been Established

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under § 103, teachings of references can be combined only if there is some suggestion or incentive to do so. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 USPQ 929, 933 (Fed.Cir.1984). There must be some reason, suggestion or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. In re Oetiker, 977 F.2d 1443, 1447, 24 USPQ 2d, 1443 (Fed.Cir.1992).

The question is not simply whether the prior art “teaches” the particular element of the invention, but whether it would suggest the desirability, and thus the obviousness of making the combination. ALCO Standard Corp. v. Tennessee Valley Authority, 808 F.2d 1490, 1498, 197 USPQ 671 (Fed.Cir.1986).

It is impermissible simply to engage in a hindsight reconstruction of the claimed invention, using applicant’s structure as a template and selecting elements from references to fill the gaps. In re Gorman, 933 F.2d 982, 987, 18 USPQ 2d 1885 (Fed.Cir.1991). There must be some reason for the combination other than the hindsight gleaned from the invention itself. Interconnect Planning

Corp. v. Fiel, 774 F.2d 1132, 1143, 227 USPQ 543 (Fed. Cir.1985).

SUMMARY

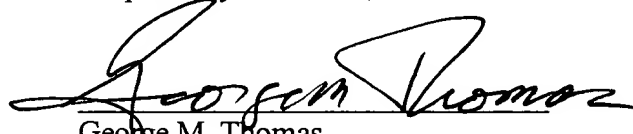
While some of the prior art references teach a ladder and a coil support device, none teach supporting it on a step of a ladder. The other references that disclose a spool do not teach the use of the stem of the handle resting on a ladder or on the step of a ladder, or non-rotatably mounted on the step of a ladder.

Applicant submits that the claims of the application adequately distinguish over the prior art. Moreover, applicant's invention performs something that is not provided by the prior art, which is the expedient placement of a coil of electrical wire on the step of a ladder, by orienting the coil with its axis extending horizontally, without the requirement of screws or other connectors which connect the caddy to the ladder.

In the event that the claim of the application are not ready for allowance, the Examiner is requested to call the undersigned attorney at (770) 933-9500 for a discussion of the claim language and the prior art, in an effort to work out language satisfactory to the Examiner.

Favorable reconsideration of the application is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George M. Thomas", written over a horizontal line.

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